

Submission by SOMO to the UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises

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1. **The Centre for Research on Multinational Corporations (SOMO)** is a non-profit Dutch research and networking organisation. SOMO investigates the social and environmental impacts of Transnational Corporations' policies and operations and, more generally, the internationalization of business worldwide. SOMO research often demonstrates global governance gaps in the protection of human rights and addresses the role and responsibility of businesses and governments in respecting and protecting human rights. Furthermore, SOMO supports and advises NGOs in using various grievance mechanisms, most notably the National Contact Points for the OECD Guidelines for Multinational Enterprises as coordinator of the OECD Watch network.

2. **SOMO's work** is therefore closely connected to the main elements of the Protect, Respect and Remedy framework and the Guiding Principles on Business and Human Rights. SOMO has been actively involved in the consultations organized by SRSG Professor Ruggie and his team leading up to the formulation and endorsement of the Guiding Principles. We look forward to continue our engagement with the Working Group, with the aim of furthering an ambitious interpretation and implementation of the Guiding Principles by states and transnational corporations.

SOMO would like to bring to the attention of the Working Group the following issue for consideration in its work program:

3. **Consult with adversely affected individuals, communities and civil society organisations:** in order to promote the effective and comprehensive implementation of the Guiding Principles and signal non-compliances, it is crucial to consult communities that are adversely impacted by the activities of transnational corporations. Only by engaging with the intended beneficiaries of the Guiding Principles can the Working Group get a grasp of the added value of the Guiding Principles and their omissions, and further progress in protecting human rights. In line with its mandate to conduct country visits, SOMO would urge the Working Group to prioritize visits to countries and regions with systemic adverse impacts related to business activity and ensure those visits prioritize visiting and consulting those communities and organisations most adversely affected.

4. **Consider concrete cases of adverse human rights impact by business:** SOMO urges the Working Group, in line with its mandate to seek and receive information from all relevant sources, including civil society and rights-holders, to consider concrete cases presented to them by adversely affected individuals, communities or civil society organisations. We believe that analysis of the existing global governance gaps can best be achieved through analyzing real and persistent challenges pertaining to business and human rights. The Working Group would be an appropriate forum to allow for grievances to be assessed, given that those adversely affected by corporate activity often have limited possibilities for their voices to be heard, and to formulate recommendations based on these assessments to states and business entities for the fulfillment of their duty to protect and responsibility to respect human rights respectively.

5. **Monitor the implementation of the Guiding Principles:** in order to promote the effective implementation in line with its mandate, it is crucial for the Working Group to have insight into the progress of implementation. Therefore SOMO calls on the Working Group to systematically monitor the implementation of the Guiding Principles by business and governments, by undertaking a baseline study at the start of its mandate and by developing clear indicators. Such indicators would need to be linked to each of the three pillars of the Protect, Respect and Remedy Framework, Such indicators would need to assess, for example; the percentage of countries globally that have adopted domestic legislation and policies related to business and human rights that contribute to closing the governance gap; the number of Transnational Corporations that have adopted human rights policies and exercised due diligence throughout their operations; the number of instances of adverse human rights impacts in

the global economy; and the number of cases successfully resolved through grievance mechanisms. Only by undertaking such as systematic monitoring of implementation of the Guiding Principles, will the Working Group be able to assess whether the Guiding Principles provide enough tools to close the global governance gap, or whether additional international measures are needed.

6. Analyse the effectiveness of existing grievance mechanisms, make proposals for their improvement and consider new mechanisms: the Working Group mandate includes a commitment “to continue to explore options and make recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities, including those in conflict areas.” As host of the OECD Watch network, that aims to promote corporate accountability through the OECD Guidelines for Multinational Enterprises, SOMO and other OECD Watch members have gathered a wealth of experience with the use of the National Contact Point’s grievance mechanism. More than ten years of testing the effectiveness have provided insights into what works and what doesn’t work and what elements are of importance for grievance mechanisms to be effective. While the 2011 update of the OECD Guidelines have brought about some improvements in content and scope of the instrument, fundamental procedural challenges remain. SOMO invites the Working Group to consult with OECD Watch to ensure this experience is incorporated in its analysis of the challenges for enhancing effective remedies.

In the coming four years, SOMO will execute a research and training program funded by the Dutch Ministry for Foreign Affairs that is designed to test and increase the effectiveness of grievance mechanisms in addressing adverse human rights impacts linked to business activity. We are looking forward to sharing our findings with the Working Group members. SOMO calls on the Working Group to expressly include in its work plan the development of proposals for strengthening existing mechanisms as well as proposals for new grievance mechanisms at national, regional or international level, in line with the Guiding Principles’ analysis that “gaps in the provision of remedy for business-related human rights abuses could be filled, where appropriate, by expanding the mandates of existing non-judicial mechanisms and/or by adding new mechanisms.(Commentary GP 27)”

In conclusion, SOMO hopes the Working Group will pro-actively take up its mandate and ensure the business and human rights agenda remains high on the agenda of international policy makers, business and other stakeholders. SOMO stands ready to engage with the Working Group and provide information resulting from its research on Transnational Corporations and its vast network of organisations in the Global South.

On behalf of SOMO,

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